

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ENNY AKINDE, KAYODE ADEGOKE

Plaintiff,

-against-

THE UNITED STATES OF AMERICA, NATHAN
PEACHY AND GEORGE SHERATON, United States
Secret Service Officers, Defendants.
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FILED 9/10
CLERK'S OFFICE
DISTRICT COURT E.D.N.Y.
NOV 24 2010
COMPLAINT OFFICE

Jury Trial Demanded

10 5472

GERSHON J

PRELIMINARY STATEMENT

1. Plaintiffs sue the United States and a number of federal employees in this action brought under the Federal Tort Claims Act ("FTCA") and Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 29 L. Ed. 2d 619, 91 S. Ct. 1999 (1971). The claims arise from a September 17, 2008 incident in which defendants falsely arrested them, assaulted and battered them, and made false allegations about them to the Kings County District Attorney's Office. Plaintiffs seek compensatory and punitive damages, attorney's fees and costs, and such other and further relief as the court deems just and proper.

JURISDICTION & VENUE

2. This action is brought pursuant to the Fourth and Sixth Amendments to the United States Constitution, Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, and the FTCA. Jurisdiction is conferred upon this Court by the aforesaid laws, and 28 U.S.C. §§ 1331, 1343, and 1346.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the acts in question occurred in Kings County.

PARTIES

4. Plaintiffs are residents of the State of New York.

5. The individual defendants are Secret Service Agents employed by the United States Government.

6. The individual defendants are sued in their individual and official capacities.

STATEMENT OF FACTS

7. Plaintiff Akinde is a 25-year-old graduate of the University of Rhode Island. At the time of her arrest plaintiff was employed as a caseworker with Human resources Administration of The City Of New York working with people with HIV.

8. Plaintiff Adegoke is a 31-year-old man with no prior arrests.

9. On Sept. 17, 2008, at approximately 12:14 a.m., plaintiffs were in apartment 8-S at 675 Lincoln Avenue, Brooklyn visiting the home of Timoteu Fakoya. Also present were Fakoya and Shodiya Francois.

10. On Sept. 17, 2008, at approximately 12:14 a.m., PEACHY and SHERATON, accompanied by members of the New York Police Department ("NYPD"), knocked loudly and repeatedly on the door to apartment 8-S. When Fakoya opened the door five to six inches, an officer pointed his firearm inside the door and yelled, "Open the fucking door."

11. Fakoya attempted to close the door so that he could remove the chain, but the officers pushed it open, snapping the chain.

12. Once inside, the officers, bearing only an arrest warrant dated Dec. 11, 2001, announced that they were searching for a fugitive, Emmanuel Adewale.

13. Plaintiffs did not live at 675 Lincoln Avenue and plaintiffs did not know Adewale.

14. After determining that Emmanuel Adewale was not in the apartment, the officers, without a valid search warrant or Fakoya's consent, proceeded to illegally search the premises.

15. After performing this illegal search, PEACHY, SHERATON, and the NYPD officers located, *inter alia*, driver's licenses they deemed fabricated and confidential personal information for persons not present in the apartment. Plaintiffs were placed under arrest and transported to the 75th Precinct.

16. Defendants, pursuant to a conspiracy with the other officers present and involved in plaintiffs' arrest, prepared police reports which falsely stated that plaintiffs committed crimes, including Criminal Possession of Stolen Property in the First, Second, Third, Fourth, and Fifth Degrees; Identity Theft; and Unlawful Possession of Personal Identification Information.

17. Plaintiffs were transported to Brooklyn Central Booking. PEACHY and SHERATON, pursuant to a conspiracy with other officers involved in plaintiffs' arrests, falsely represented to the Kings County District Attorney's Office that plaintiff had committed the crimes of Criminal Possession of Stolen Property in the First, Second, Third, Fourth, and Fifth Degrees; Identity Theft; and Unlawful Possession of Personal Identification Information.

18. On the evening of September 17, 2008, plaintiffs were arraigned and bail was set on each.

19. On Sept. 22, 2008, PEACHY and SHERATON, pursuant to a conspiracy

with other officers involved in plaintiff's arrest, falsely testified before a Kings County grand jury designated Indictment No. 9418/2008, that at the time they entered 675 Lincoln Avenue, Apartment 8-S on Sept. 17, 2008, stacks of papers, credit cards, and stacks of identification were plainly visible on the coffee table and on the floor.

20. On Oct. 22, 2008, the Kings County grand jury, having heard false testimony, voted Indictment No. 9418/2008, charging plaintiffs with 58 counts, including Scheme to Defraud in the First Degree, Grand Larceny in the Second and Third Degrees, Identity Theft in the First Degree, Falsifying Business Records in the First Degree, Criminal Possession of a Forged Instrument in the Second Degree, Criminal Possession of Stolen Property in the Fourth and fifth Degrees, and Unlawful Possession of Personal Identification Information in the Third Degree.

21. Plaintiff Akinde spent approximately two weeks on Rikers Island before her family was able to raise bail. Plaintiff Adegoke could not make bail and remained incarcerated.

22. As a result of her arrest, Plaintiff Akinde was fired from her job.

23. On Oct. 19, 2009, all charges against plaintiffs were dismissed.

24. On Oct. 19, 2009, plaintiff Adegoke had been incarcerated for 398 days.

25. Plaintiffs suffered damage as a result of defendants' actions. Plaintiffs were deprived of their liberty, suffered emotional distress, mental anguish, fear, anxiety, embarrassment, loss of employment, loss of income and humiliation. Further, plaintiffs experienced pain, numbness, and bruising from the excessively tight handcuffs.

CLAIM AGAINST THE UNITED STATES OF AMERICA

26. Plaintiffs repeats the foregoing as if fully stated here.

27. The conduct of the individual defendants, as described herein, renders the United States of America liable to plaintiff under the FTCA.

28. The United States is liable to plaintiff because the individual defendants' acts, which were committed in the course of their federal employment, amounted to malicious prosecution, assault and battery.

CLAIM AGAINST DEFENDANTS PEACHY AND SHERATON

29. Plaintiffs repeat and reallege the foregoing as if fully stated here.

30. No officer observed plaintiffs commit a crime on September 17, 2008. Further Defendants, pursuant to a conspiracy, falsely stated to the Kings County District Attorney's Office that plaintiffs had committed a crimes.

31. Accordingly, the individual defendants are liable to plaintiffs under the Fourth Amendment to the United States Constitution, and Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics for falsely arresting them.

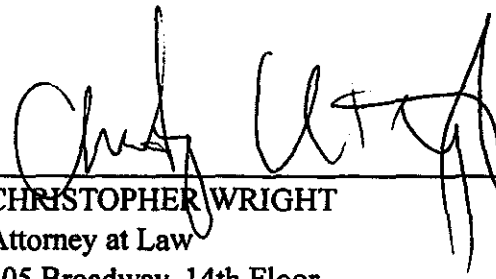
32. Accordingly, the individual defendants are liable to plaintiffs under the Sixth Amendment and Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics for fabricating evidence against them and denying them a fair trial.

WHEREFORE, plaintiff demands a jury trial and the following relief jointly and severally against the defendants:


- a. Compensatory damages in an amount to be determined by a jury;
- b. Punitive damages in an amount to be determined by a jury;

- c. Costs, interest and attorney's fees;
- d. Such other and further relief as this Court may deem just and proper,
including declaratory relief.

DATED: November 24, 2010
New York, New York



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